

Association Health Plans – Bad for Cancer Patients and Survivors



On October 12, 2017, the Administration released an [Executive Order](#) (EO) directing the Department of Labor to expand access to Association Health Plans. Proponents claim that encouraging the use of these plans will provide additional insurance options with lower premiums. However, there are serious concerns about how such policy changes would affect cancer patients and survivors and disrupt the state insurance marketplaces.

What is an Association Health Plan?

An Association Health Plan (AHP) is a health plan for small businesses who have joined together to form an association and agreed to collectively purchase health insurance for their employees. Forming this kind of an association may save the individual businesses some administrative costs and allow them to take advantage of larger purchasing power and a larger risk pool, which can result in lower premiums for enrollees. Any type of business could form an AHP, but some of the biggest AHPs have been farm bureaus – allowing independent farming businesses to associate and buy insurance.

Prior to enactment of the Affordable Care Act (ACA) in 2010, AHPs operated with very little regulation. Partly because many AHPs involved businesses in multiple states, they could choose which state would regulate them – essentially choosing which rules to follow. This meant that an AHP sold in a given state did not necessarily cover the benefits mandated by that state or follow that state’s solvency rules. In fact, some of these unregulated AHPs failed in the early 2000s, leaving thousands of members uninsured and millions of dollars in unpaid medical bills.¹ An AHP could also set up its own rules about which businesses to accept – leading to the possibility of rejecting businesses based on the health status of their potential enrollees.

Starting in 2011 under regulations implementing the ACA, HHS required AHPs to operate within the rules of the small employer market, meaning that AHPs must cover comprehensive benefits required by the Essential Health Benefits (EHBs) standard and meet solvency, medical loss ratio, and other standards.

What Have Been Some State Experiences With AHPs?

Since the enactment of the ACA – which imposed coverage standards like EHBs and a prohibition on annual and lifetime limits – AHPs have not been a major sector of the insurance market, with some exceptions. Most significantly, non-ACA-compliant Tennessee Farm Bureau Health Plans continue to operate in that state via a legal loophole. These plans underwrite potential enrollees – meaning they pick and choose the healthiest individuals – and provide plans that don’t cover the EHBs. Because these plans offer more limited benefits, their premiums are less expensive. This drawing of healthy individuals out of the marketplace, called “market segmentation,” has led to serious instability in the state’s insurance marketplace.²

¹ The Augusta Chronicle. “Some health care experts offer warnings about Trump’s new proposal.” October 4, 2017. <http://chronicle.augusta.com/news/2017-10-04/some-health-care-experts-offer-warnings-about-trump-s-new-proposal>.

² Georgetown Center for Health Insurance Reforms. “What’s Going on in Tennessee? One Possible Reason for Its Affordable Care Act Challenges.” April 11, 2017. <http://chirblog.org/whats-going-tennessee-one-possible-reason-affordable-care-act-challenges/>.

What Does the Executive Order Do?

The EO directs the Department of Labor within 60 days to “consider proposing regulations or revising guidance” to expand access to AHPs. It does not dictate to the Department of Labor what specific policies should be implemented, but does reference the Employee Retirement Income Security Act (ERISA), which regulates large group and self-insured plans.³

The Department could propose to treat AHPs like large group or self-insured health plans, which would exempt them from many crucial patient protections and coverage standards. The Department could also propose rules that make it very easy for employers to form associations without oversight, and that allow individuals to join AHPs, which could result in a situation like Tennessee’s (referenced above) nationwide.

Why is the Expansion of Association Health Plans Concerning for Cancer Patients and Survivors?

Expanding the use of AHPs involves severely weakening patient protections that are crucial to cancer patients, survivors, and those needing preventive care:

- Exempting AHPs from EHB requirements would allow the sale of plans that do not cover, or severely limit, services that are necessary for cancer patients, like prescription drugs or hospital services.
- For individuals who enroll in an AHP and are diagnosed with cancer months later, they may discover their plan does not cover the services they need.
- If AHPs are exempt from the rules of plans offered via state exchanges, their lower premiums will likely attract younger, healthier enrollees, thus negatively impacting the risk pool for ACA-compliant marketplace plans. This could result in ACA-compliant plans having older, sicker enrollees, which would drive premiums higher and higher as healthy individuals are no longer enrolled to balance the risk of unhealthy individuals. In order to get coverage for the products and services they need, cancer patients and survivors will need to enroll in ACA-compliant plans to receive comprehensive benefits, so their premiums will likely be very expensive.
- If AHPs no longer have to meet state solvency standards, some individuals may once again find themselves enrolled in insurance plans that fail and close unexpectedly – leaving them uninsured and unable to receive needed healthcare services. This would be an especially dire situation for someone who was in the midst of cancer treatment.
- If AHPs no longer have to follow ACA rating rules, AHPs could structure their premiums so as to make them unaffordable for individuals who are older, less healthy, or have pre-existing conditions. This would leave cancer patients with no affordable options for health insurance.

ACS CAN Position

ACS CAN opposes any policy changes that exempt Association Health Plans from federal protections that are critical to cancer patients including prohibitions on pre-existing condition exclusions, Essential Health Benefit coverage standards, maximum out-of-pocket limits, and prohibitions on annual and lifetime limits. ACS CAN also opposes removing Association Health Plans from state regulatory authority which could severely disrupt the insurance market.

³ For more information about ERISA plans and their relevance to AHPs, see <http://healthaffairs.org/blog/2017/10/12/trump-executive-order-expands-opportunities-for-healthier-people-to-exit-aca/>